

EXHIBIT D

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 22 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

IN THE MATTER OF KAREN
GOLINSKI et ux.

No. 09-80173

ORDER

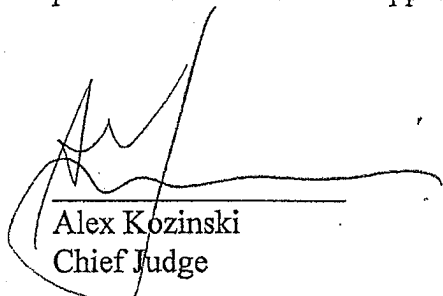
The time for appeal from my orders in this matter, dated January 13, 2009, and November 19, 2009, has expired. Only the Blue Cross and Blue Shield Association ("Blue Cross") has filed a timely notice of appeal; it petitioned the Judicial Council for review of my November 19, 2009, order on December 17, 2009. My prior orders in this matter are therefore final and preclusive on all issues decided therein as to others who could have, but did not appeal, such as the Office of Personnel Management ("OPM") and the Administrative Office of the United States Courts. Federated Dep't Stores, Inc. v. Moitie, 452 U.S. 394, 398-402 & n.4 (1981); see also Travelers Indem. Co. v. Bailey, 129 S. Ct. 2195, 2205-07 (2009).

As the jurisdictional issues presented in Blue Cross's petition for review are separate and distinct from those concerning my now conclusively-determined

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jurisdiction over governmental entities such as OPM, I authorize Ms. Golinski to take what further action she deems fit against any entity other than Blue Cross, without waiting for the Judicial Council's disposition of Blue Cross's appeal.

December 22, 2009



Alex Kozinski
Chief Judge